



Health Care Records in Schools

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Today's presentation

- Share what kind of health records in schools are & are not patient health care (PHC) records
- Activity to check on your learning
- Distinguish between the treatment of PHC records and other pupil records
- Share differences between state & federal law
- Share some strategies to help make it easier to manage PHC records in your schools
- Encourage questions throughout the presentation

Primary categories of pupil records

1. Progress
2. Behavioral
3. Patient health care

See handout *Categories of Pupil Records*.

Categories of Pupil Records

Patient Health Care Records	Behavioral Records
Progress Records	

Special Education Records

Pupil Physical Health Records

Progress records

Progress records include student's grades, courses taken, attendance records, extracurricular activities, & immunization & lead screening records.

Wis. Stat. sec. 118.125(1)(c)

Behavioral records

Behavioral records include psychological tests, personality evaluations, records of conversations, any written statement relating specifically to an individual pupil's behavior, tests relating specifically to achievement or measurement of ability, the pupil's physical health records (other than his or her immunization records or any lead screening records), law enforcement records, & any other pupil records that are not progress records.

Wis. Stat. sec. 118.125(1)(a)

Patient health care records

"Patient health care records" means all records related to the health of a patient prepared by or under the supervision of a health care provider

Wis. Stat. sec. 146.81(4)

Note: It is the **content** of a record that determines its category (i.e., progress, behavioral, or PHC), not the title of the record. A medical opinion, diagnosis or judgment within an IEP or 504 plan makes that portion of that plan a PHC record.

Who are the health care providers in schools?

- School nurse
- Physical therapist
- Dietician
- Athletic trainer
- Occupational therapist
- Occupational therapy assistant
- Speech-language pathologist
- Professional counselor, psychologist, & social worker licensed or certified by Dept. of Safety & Professional Services (formerly DRL)

Patient health care records

- Except as provided in [par. \(b\)](#), any pupil record that relates to a pupil's physical health & that is not a pupil physical health record shall be treated as a patient health care record under [ss. 146.81](#) to [146.84](#).

Wis. Stat. sec. 118.125(2m)(a)

- Any pupil record that concerns the results of an HIV test, as defined in [s. 252.01 \(2m\)](#), shall be treated as provided under [s. 252.15](#).

Wis. Stat. sec. 118.125(2m)(b)

Pupil physical health care records

Pupil physical health records include immunization records, an emergency medical card, a log of first aid & medicine administered, an athletic permit card, a record concerning ability to participate in an education program, lead screening records, results of routine screening test (hearing, vision or scoliosis & any follow-up to such test).

Wis. Stat. sec. 118.125(1)(cm)

Categories of Pupil Records

Special Education Records	Behavioral Records
Patient Health Care Records	
Progress Records	Pupil Physical Health Records

What Kind of Record Is It?

- #1. Immunization record

What Kind of Record Is It?

- #2. A report by an OT for an IEP Team evaluation that summarizes the student's functioning & the need for services for the student to benefit from special education

What Kind of Record Is It?

- #3. A log of medication administered to a student

What Kind of Record Is It?

- #4. Letter from a physician that indicates a student has a medical condition that causes her to need to urinate more often & asking that the school district accommodate her by allowing her to use the rest room as needed – No medical diagnosis is provided

What Kind of Record Is It?

- #5. A report about a student from a S/L pathologist in a medical clinic that includes clinical information that goes beyond what the school needs to plan an educational program for the student

What Kind of Record Is It?

- #6. A 504 evaluation report that includes information from the student's physician that the student has a brain tumor

How are patient health care records different than other pupil records?

- Governed by Wis. Stat. Ch. 146, as well as Wis. Stat. sec. 118.125 & FERPA
 - Security provisions of HIPAA apply if school is **directly** billing Medicaid
- Higher level of confidentiality & more requirements
 - Schools must limit access to PHC records that are not relevant to provision of instruction & services
 - Record of access by anyone must be kept
 - Parents must be given written statement of who has access to their child's PHC records

How are patient health care records different than other pupil records?

- Maintenance of records
 - Custodian of PHC records should be health care provider
 - No specific guidelines for maintenance following graduation (5-7 years recommended)
 - Note: Immunization records must be maintained for a minimum of 5 years after a student graduates or leaves school
- <http://publicrecordsboard.wi.gov/docview.asp?docid=15892&locid=165>
- Significant penalties in the law for unauthorized disclosures
 - Fines for unintentional disclosures
 - Discipline & termination of employment

How are patient health care records different than other pupil records?

- Release forms
 - Consent to release PHC records must include more information than for behavioral & progress records
 - Types of health care providers making the disclosure
 - Date on which the consent is signed
 - Time period during which the disclosure is effective

Strategies to Help Manage Patient Health Care Records in Schools

1. Create a single release form that includes all of the necessary information to release PHC records & use that form for all pupil records
(Question #8 – Student Records & Confidentiality)
http://sspw.dpi.wi.gov/sspw_srconfid03
2. Obtain copies of community health care systems' (e.g., clinics, hospitals, treatment facilities) release forms & use them when you want to obtain PHC records from these systems

How are patient health care records different than other pupil records?

- Transfer of records
 - Should always transfer PHC records that originate in the school – Wis. Stat. 118.125(4)
 - OK to transfer community mental health & AOD treatment records – Wis. Stat. 51.30(4)
 - Get informed consent to transfer PHC records that originate outside the school
 - More restrictive interpretation is not to forward these records

Differences between state & federal laws

- State law authorizes these disclosures
 - Immunization records to DHS
 - Lead screening records to state & local health officials
Wis. Stat. sec. 118.125(2)(h), (hm)
- FERPA does not allow these disclosures without consent
- Both state & federal law do allow disclosures without consent to protect health & safety in an emergency
Wis. Stat. sec. 118.125(2)(p); 34 CFR 99.31(a)(10), 99.36

Strategies to Help Manage Patient Health Care Records in Schools

3. When obtaining PHC records from health care providers, be sure the release form specifies disclosure to all necessary educators, whether they are health care providers or not (e.g., IEP Team, staff involved in evaluation and/or program development/implementation)

Note: Patient health care records may be redisclosed without additional parental consent, if the redisclosure is limited to the same purpose for which the patient health care record was initially received [Wis. Stat. sec. 146.82(5)(c)3.]

Strategies to Help Manage Patient Health Care Records in Schools

4. View PHC records in the medical records department of the health care institution as an alternative to obtaining copies
 - This strategy may help reluctant parents
5. Ensure that all reports/records created within your schools that contain PHC information only include information that is necessary to provide instruction & services

Strategies to Help Manage Patient Health Care Records in Schools

7. Store PHC records that include information that is not necessary for instruction & services separate from other pupil records & in the custody of a health care provider
 - You may destroy pupil records no longer needed
 - Need to notify parents first if SPED records
8. When pupil records are transferred to another school district, you may wish to maintain a copy of the PHC records for liability purposes

Strategies to Help Manage Patient Health Care Records in Schools

6. Develop a local policy to determine if PHC records that originate outside of the school will:
 - Be transferred to the next school district with informed consent of the parent/guardian or adult student, or
 - Not be transferred to the next school district
 - If the school district is not transferring, good practice is to notify parent/guardian/adult student in order for the family to provide consent for the original health care provider to release the records to the next school district

Strategies to Help Manage Patient Health Care Records in Schools

9. Record access by staff & parents to all pupil records, rather than just PHC records
10. Provide training to staff on access to the different kinds of pupil records
 - Required for staff handling SPED records 34 CFR 300.623(c)
 - Provide more intensive training for gatekeepers
11. Use gatekeepers to prevent inappropriate access to more sensitive records

What other questions do you have about health care records in schools?

Categories of Pupil Records

There are three primary types of pupil records: progress, behavioral and patient health care records. Each category is mutually exclusive (i.e., all pupil records can be assigned to just one of these three categories).

Progress Records ¹	Behavioral Records ²	Patient Health Care Records ^{3,4}
<ul style="list-style-type: none"> • grades • courses • attendance • lead screening⁵ • immunizations⁵ 	<ul style="list-style-type: none"> • psychological tests • personality evaluations • records of conversations about students • statements about a student's behavior • discipline records • achievement or ability tests • academic & behavior screening results • law enforcement & juvenile justice records • court orders • IEP reports, plans, interventions & activities, including related services • RtI interventions & student responses • log of first aid⁵ • log of medication administration⁵ • hearing, vision, & scoliosis screening & follow-up records⁵ • emergency medical card⁵ • any other pupil records that are not progress records (with the exception of patient health care records) 	<ul style="list-style-type: none"> • medical or health reports from health care providers, including mental health & AOD treatment • medical diagnoses • records of conversations with physicians & other health care providers • summary of evaluation reports written by health care providers in the school that discuss a student's health or medical history • individual health care plans, emergency action plans or other treatment plans regarding a student's health developed by health care providers in the school setting (e.g., nurse, OT, PT) • 504 or other accommodation plans that include medical diagnoses or other supporting documentation by health care providers in the school setting (e.g., nursing diagnoses, medical orders, professional judgments concerning a student's health) • Medicaid documentation • any pupil record created by a health care provider other than what is identified as a pupil physical health record⁵

¹ Progress records must be maintained for at least five (5) years after a student graduates or ceases to be enrolled [Wis. Stat. 118.125(3)].

² Behavioral records may be maintained for no longer than one (1) year after a student graduates or ceases to be enrolled, unless the adult student specifies in writing that the records may be retained longer [Wis. Stat. 118.125(3)].

³ Patient health care records are subject to a different and higher confidentiality standard as delineated in Wis. Stat. 146.81-84.

⁴ There are no legal provisions addressing the retention period for patient health care records. However, a retention period of 5-7 years is referenced in state law for other kinds of records.

⁵ Record of immunizations, first aid and medication administration logs, emergency medical and athletic permit cards, record about a student's ability to participate in an education program, and some physical health screening are also identified as pupil physical health records [Wis. Stat. 118.125(1)(cm)].

Directory Data includes student name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, photographs, degrees and awards received and the names of schools most recently previously attended by the student [Wis. Stat. 118.125(1)(b)].

Personal records, psychological treatment records, and law enforcement unit records are not pupil records [Wis. Stat. 118.125(1)(d)].

Rights related to pupil records transfer from the parent/guardian to the student when the student turns 18 years of age or is otherwise emancipated [34 CFR § 99.5; Wis. Stat. 118.125(2)(k)].